

## HUMAN SERVICES BOARD

## INTRODUCTION

## FINDINGS OF FACT

1. The petitioner is a single person who works as a part-time teacher's aide during the school year and has no health insurance. She is paid \$1,283.00 per month for that job during ten months of the year, although she can elect to have it paid over twelve months' time. The petitioner has not selected the latter alternative because she needs the biggest paycheck she can get each month. At other times during the past year the petitioner has also worked as a waitress. At the time of her hearing, however, she was only employed as the

school aide. The petitioner expects that she will be employed full-time by this Fall and that she will be able to obtain employer sponsored health insurance.

2. In March of this year, the petitioner applied for VHAP benefits. She initially reported earnings of \$1,720 per month from her school and waitress jobs. After deducting \$90 as a work expense, the petitioner's countable income was calculated as \$1,630 per month. On March 31, 2000, the petitioner was notified in writing that her application had been denied because her income was in excess of the \$1,044 per month maximum for a single person.

3. In response to this denial, the petitioner reported that she was no longer earning money as a waitress and that her sole monthly income was \$1,283.55 from her school employment. A new determination of her eligibility was made deducting \$90 from the above amount and comparing the balance, \$1,193.55, to the \$1044 maximum. She was again notified in writing on April 13, 2000 that her income was in excess of program maximums.

4. The petitioner appealed that denial stating that the Department should have calculated her eligibility by averaging the amounts she receives from her school job over a twelve month period instead of a ten month period. If such an

averaging were done, the petitioner would have monthly income of \$1,069.62 which, when subjected to a \$90 disregard, would give her a countable monthly income of \$979.62, a figure which is below the maximum income for VHAP eligibility.

ORDER

The decision of the Department is affirmed.

REASONS

Regulations adopted by the Department in the administration of the VHAP program set program eligibility for a single person at 150% of the federal poverty level which is \$1,044 per month. W.A.M. 4001.84, P-2420. The regulations define "countable income" as follows:

Countable Income

Countable income is earned and unearned income, as defined in this section, less all allowed deductions. Income in the month of application (or review) and future months is estimated based on income in the calendar month prior to the month of application (or review) unless changes have occurred or are expected to occur and this income does not accurately reflect ongoing income. If changes are expected to occur, an estimate of income based on current information should be used.

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W.A.M. 4001.81

The only deduction available to a single person who is earning a wage and is not self-employed is the "standard employment expense deduction" of \$90.00 per month. W.A.M. 4001.81(e). Under the above regulation, the income earned by the petitioner in the month before her March application, \$1,720, was used to predict the petitioner's future income. When she reported that there had been a reduction in her income—she was no longer working at the waitress job—her countable income was reduced to \$1,283.55, the amount of income she was actually earning at the time. Although the petitioner anticipated that by July 1 she might have no income, it cannot be said that the \$1,283.55 was an inaccurate reflection of what the petitioner could expect to earn for at least the next three months. Nor can it be said that the Department failed to follow its regulations in determining the amount of monthly countable income for the petitioner.

The petitioner argues, however, that as her teaching job is only for a ten month contract, monthly income was not an accurate reflection of her yearly earnings and that it would be fairer to look at her income on an annual basis. If eligibility were determined on an annual basis, the petitioner might have a good argument. However, the VHAP regulations look at eligibility from month to month. Although a person

could have a period of eligibility lasting several months, an increase in income over the maximum for even one month is sufficient to terminate any period of eligibility. See W.A.M. 4002.31. Conversely, a period of eligibility can be established at any time that the petitioner reports a drop in income under the maximum amount, such as may occur in the summer months.

The petitioner had the option of choosing to be paid over a period of twelve months. If she had taken that option, she could have been eligible for VHAP for any months in which she did not have other employment. That is because VHAP only counts income as it is actually received. However, the petitioner chose to be paid the full amount as she earned it. In addition, there is nothing to prevent the petitioner from obtaining employment during the summer months or as a supplement to her part-time school employment. There is no way that the Department can predict what those amounts might be and "average" them into her annual income as well and then come up with an accurate monthly number. The Department is correct under its regulation to count her income from her school employment on a monthly basis when she received it and was able to use it.

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